IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

MFA.No. 62 of 1998()

OPMV.1445/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, TIRUR

APPELLANT: PETITIONER:

P.KADEEJA, W/O.MOHAMMED,
PANGIRIKKADAN HOUSE, KACHADIKKAL,
VENNIYOOR, VELEKKULAM P.O.- 676 508.

BY ADV. SRI.S.V.BALAKRISHNA IYER
SMT.M.M.TEENA

RESPONDENTS: RESPONDENTS:
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1. ILLIKKATTUTHODI YUSUFF, S/O.SAIDALIKUTTY,
   CHAKKATTUMUKKIL HOUSE,
   P.O.THRIKKANAPURAM.

2. P.MOHAMMED, S/O.ALI, PALLIYALIL HOUSE,
   P.O.KUTTIPPURAM.

3. UNITED INDIA INSURANCE CO. LTD.,
   DIVISIONAL OFFICE, MANJERI.

R3 BY ADV. SRI.M.A.GEORGE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T. SANKARAN, J.

M.F.A.NO. 62 OF 1998 B

Dated this the 8th day of January,2007

JUDGMENT

Appellant filed O.P.(MV) No.1445 of 1995, on the file of the Motor Accidents Claims Tribunal, Tirur, claiming a sum of Rs.41,000/- as compensation. The Tribunal awarded a sum of Rs.9,500/-.

2. The accident occurred on 28.9.1992 at about 12.30 P.M. The petitioner was standing on the side of the road. At that time, the vehicle, bearing Registration No.KLL.7698, driven by the first respondent, knocked down the appellant. As a result of the accident, she sustained injuries which are noted in Ext.A2 wound certificate as follows:

> "Crush injury left little toe, lacerated wound over great toe (left)with loss of nail (1x1cm x 0.5 cm), lacerated wound (left) medial aspect of foot (2x1x0.5 cm)."

The Medical Officer issued Ext.A4 disability certificate wherein it is stated that the petitioner has sustained permanent disability of 13%.

3. The Tribunal found that the accident occurred solely due to the rash and negligent driving of the vehicle by the first respondent driver. The appellant was admitted in the hospital for eight days. Her case is that she continued her treatment for six months. The appellant is a coolie and she earned Rs.65/- per day. She complained that there was severe pain on her left leg and that she was unable to do any work for one year. The Tribunal did not accept Ext.A4 disability certificate as it was not properly proved. The Tribunal fixed the income of the appellant at Rs.500/- per month and loss of income for three months alone was granted. Compensation for pain and suffering was assessed at Rs.5,000/- and only a sum of Rs.2,000/- was awarded as compensation for disability.

4. On considering the facts and circumstances of the case and evidence on record, I am inclined to fix the income of the appellant at Rs.1,000/- per month and to award loss of income for four months at the rate of Rs.1,000/- per month. Thus as against the award of Rs.1,500/- under the head `loss of income', the

appellant is awarded a sum of Rs.4,000/-. Towards extra nourishment, the Tribunal awarded only a sum of Rs.250/-. I am inclined to award Rs.1,000/- towards extra nourishment. So also, as compensation for disability, I am inclined to grant Rs.5,000/-, taking into account the facts and circumstances of the case. Thus, apart from the amount awarded by the Tribunal, an additional sum of Rs.6,250/- is also awarded. For the additional amount, the appellant shall be entitled to get interest at 7.5% from the date of petition till realisation.

In the result, the Miscellaneous First Appeal is allowed in part. In addition to the compensation awarded by the Tribunal, the appellant shall be entitled to a further sum of Rs.6,250/- together with interest at 7.5% from the date of petition till realisation.

(K.T.SANKARAN)
Judge

ahz/

K.T.SANKARAN, J.

M.F.A.NO. 62 OF 1998 B

JUDGMENT

8th January, 2007